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CAMPAIGN PRACTICES AND FINANCES

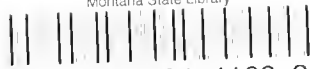
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INTRODUCTION

The Montana Corrupt Practices Act, enacted by the Initiative Act of November 1912, represents a sincere effort of the Progressive Era to curtail influences which were corrupting the political processes at that time. In recent years there have been nationwide efforts at state and national levels to revise laws regulating political campaigns.¹ These efforts have grown out of a recognition that the reforms of one era are not always compatible with the needs of another.²

Recognition of the inadequacy of the current law and the fact that enactment of piecemeal legislation amending the current law could not make it equal to the challenge of present day campaign regulations, led to the introduction of House Resolution No. 16 in the 43rd Legislature. The Joint Committee on Constitution, Elections, and Federal Relations was assigned the responsibility of studying laws regulating campaigning for public office. The Committee was further charged to submit a draft bill providing for comprehensive campaign regulation to the 1974 session of the 43rd Legislature.

During the interim, the subcommittee met with representatives of each political party, the Office of the Secretary of State, and the Montana Clerk and Records Association. In addition, the subcommittee studied approaches to campaign regulation recently enacted in other states and heard testimony from citizens interested in campaign reform.

As a result of its work, the Committee has developed the bill that is attached. The following report discusses desirable goals of campaign regulation developed in subcommittee study, inadequacy of the Corrupt Practices Act to meet these goals, and how the proposed bill would achieve these goals.

GOALS OF CAMPAIGN REGULATION

To pursue a study of campaign practice regulation, the subcommittee had to concern itself in two general areas. First was to analyze the current law to determine its strengths and weaknesses. Second was to determine what goals the committee wanted to reach in terms of new legislation. It was then necessary to decide whether the Corrupt Practices Act should be amended or replaced.

In studying the Montana Corrupt Practices Act, the subcommittee recognized that it was similar in approach to the laws of other states which were passed at a comparable time in history and which had also come under attack in recent years.

Most analysts considering these laws have agreed with the assessment made in the Pennsylvania Law Review that most of these statutes are more loophole than legislation.³ Before loopholes can be identified and a law criticized, the desired goals of the legislation must be ascertained. An exception or omission is no loophole unless the intent of the legislation is subverted by it. The subcommittee recognized that campaign regulation laws should encourage citizen participation in the election process by promoting an atmosphere in which there is a ready availability of complete, fair, and truthful information about candidates and issues. Thus, the subcommittee decided that a central goal of any regulatory attempt would be to make details on the sources and disposition of campaign funds available to the public prior to an election. In order to accomplish this it is necessary to provide controls on the source handling, and disposition of campaign money and a system for accounting for that money. This will enable the effective enforcement necessary to make the law work.

In order to curb the tendency for campaign spending to rise higher and higher thus discouraging citizens from participating, the Committee established as a second goal that total spending in a campaign should be limited. The Committee recognizes that this is a difficult goal to accomplish, but that it is vital that campaign spending levels be kept down if the political system is to be free of big money interests. Limitation of spending is further discussed later in the report.

Effective enforcement must be the third goal of a law regulating campaigns. The Committee recognized that failure to provide adequate enforcement machinery for this special legal problem would be a fatal flaw in any attempt to regulate campaigns. The problem of enforcement is also discussed later in the report.

THE CORRUPT PRACTICES ACT

The Corrupt Practices Act is found in sections 23-4701 through 23-4775, R.C.M. 1947. Sections 23-4701 through 23-4723 concern frauds with the processes of election administration such as improper registration of voters and corruption of election officials. These provisions tend to be holdovers of common law protections of the integrity of the election. Sections 23-4724 through 23-4726 provide other protections, penalties, and disposition of fines relating to the preceding sections. Most of the sections from 23-4727 through 23-4775 relate to the sources, use, and control of campaign finances. It was in this latter section of the Corrupt Practices Act that the subcommittee concentrated its attention. Why and to what extent are these sections outdated and inadequate to regulate campaigns today? What approach does the Act follow and how well has it worked? These are questions that were asked as the subcommittee decided whether to replace or amend the current statute.

The act attempts to restrict the direct influence of large fund sources on elections in two ways. First, candidates are restricted from spending large amounts of their own money on a campaign.⁴ This restriction would presumably prevent a wealthy candidate from buying his way into office. Secondly, corporations are prohibited from contributing to campaigns.⁵ This prohibition was designed to help allay the fear first commonly expressed early in this century that "the great business combinations, being the only centers of wealth and power, would be able to lord it over all other interests and thus to put an end to traditional American democracy."⁶

The act attempts to control the handling of campaign funds by providing that accounts of campaign receipts, payments, and liabilities be kept by committees and persons receiving or spending money on a campaign in excess of fifty dollars. The books are open to inspection by the opposition at reasonable times.⁷ There is no particular way in which the accounts are to be kept, nor is it particularly clear what expenditures must be included or may be excluded from the accounts.

After the elections summaries of these accounts are to be submitted to city clerks, county clerks, or the Secretary of State.⁸ Because the accounts on which the reports are based are not uniform, the value of the reports is questionable. In any event, one report cannot be compared against another without investigating each one in detail. Thus the filing officers can react only to obvious errors or lack of reporting as far as their enforcement duties are concerned.

Campaign expenditures are loosely regulated. No limit is imposed on total expenditures. Control is limited to the prohibition of spending money for treating,⁹ entertaining

electors,¹⁰ bribery,¹¹ or giving any money or other valuable thing to an elector to influence his vote.¹² The language prohibiting these practices is complicated and obscure. Violations by candidates are widespread as much because of the obscurity of the law as anything else. This situation has made enforcement difficult enough that in many cases it has not been pursued.

Enforcement of the Corrupt Practices Act has never been truly aggressive. Considering the complexity of the act and the number of conflicting sections, one might expect to find much litigation resulting from cases tried under the law. Yet this is not the case. There has been only one major case in the sixty-one year history of the act.¹³ Not one case is annotated in the Revised Codes of Montana. This is symptomatic of a lack of activity in the enforcement area.

A lack of enforcement of campaign laws is not unique to Montana. The subcommittee found that it has been a widespread phenomenon in states with similar laws. Some of the reasons for this have already been discussed. One other critical reason why enforcement is not aggressive may be found in analysis of the nature of the enforcement administration itself.

Montana, in common with a number of other states has placed the burden of enforcement on the shoulders of the county attorneys.¹⁴ Action by the Attorney General is limited to application to a district court in the event a candidate has filed an insufficient statement. This is the same power any voter has.¹⁵ The filing officials, the Secretary of State, county clerks, city clerks, and clerks of school boards, simply file reports and notify candidates and county attorneys if these reports are clearly delinquent or inadequate.¹⁶

Nationwide attention has been given to the fact that campaign regulatory laws fail at the enforcement level because elected officials and political appointees are loath to endanger candidates from their own party and may fear reprisals from the opposite party.¹⁷ The intrusion of partisan politics into this area of criminal law can be expected to subvert the intent of the law and confuse the issues. As long as elected officials are charged with enforcement responsibility, past history and common sense, both dictate that no law can achieve effective campaign regulation.¹⁸

Having considered these facts, the subcommittee recognized that it was not only futile, but also unfair to require elected officials to enforce the law in this area. Alternatives were studied and discussed. One alternative, that of one appointed commissioner, is included in the attached bill.

In summary, the Committee does not argue with the intent of the Corrupt Practices Act but finds that it is a confusing and poorly organized collection of provisions that are in many instances unrealistic, unenforceable, or so poorly written as to

be extremely difficult to construe. Loopholes and lack of enforcement have created an attitude of disregard for the importance of what are considered "technical violations,"¹⁹ which may create an atmosphere in which more serious violations are also overlooked. A law that attempts to regulate campaigns, but is unenforced and probably unenforceable is almost worse than no law at all. The knowledge of widespread violations breeds cynicism in the electorate and among candidates. Thus the Committee decided that the present law must be changed, keeping and reinforcing strong points and adding provisions reflecting the problems and procedures of today's politics.

To accomplish this, the Committee decided to draft a bill which would largely replace the Corrupt Practices Act. As much of the act as possible was incorporated into the bill. Some parts of the act have been left as they are. Some new departures were considered. The following section discusses the bill in terms of background and approach.

COMMENTS ON THE BILL TO PROVIDE
COMPREHENSIVE CAMPAIGN REGULATION

As the Committee worked to develop an outline of a bill to regulate campaigns, it studied the methods with which other states have been experimenting. There have been numerous efforts nationwide to improve legislation in recent years, and just this year at least ten states have revised campaign regulatory laws.²⁰ The Committee considered the changes made in these states and also studied model acts proposed by the National Municipal League, the Montana Common Cause, and the Office of the Governor. By way of consideration of a number of approaches and an understanding of the political situation unique to Montana, the subcommittee has developed a bill it believes will meet the needs of Montana.

Most of the basic principles of the bill have been used in the state of Florida since 1951. The most significant part of the bill closely related to the Florida law is the portion on reporting and control of contributions and expenditures. While some of the provisions may seem complex and cumbersome on first reading, Florida authorities have found no difficulty as to the workability of the law or with the forms used for implementing the law.²¹ Recent changes in the Florida law have not changed the basic approach which has worked there for over twenty years.

Other portions of the bill were influenced by the various other models and bills which were studied. Certain sections consolidate and clarify provisions of the current Corrupt Practices Act. Still other sections represent the feeling of the subcommittee as to the best way to control spending levels in Montana campaigns.

In all, the Committee has sought to establish only enforceable standards and to establish a genuine enforcement mechanism to enforce them.

The bill incorporates the doctrine of agency by creating campaign treasurers and deputies to whom all money or things of value go and by whom all expenditures are made. In this way the money flow is centralized and a tight accounting of money from the time it is contributed until it is spent is made possible. Both the treasurer and candidate are responsible for the proper handling of campaign funds, and the penalties for violation range from those of a misdemeanor to loss of certificate of election and prohibition from future candidacy. Civil penalties are also provided.

The bill requires written records and accounts of all contributions and expenditures. It provides that these records and accounts be kept in a manner prescribed by the responsible enforcement authority so that the content of the records can be easily deduced.

To facilitate publicity and aid in timely enforcement procedures, reports are required on a periodic basis before the election. The content of the reports is open to public scrutiny so the general public can know before election day who supports a candidate and to what extent. This publicity is also facilitated by the requirement that all contributions and expenditures go to and through the candidate-designated campaign treasurer.

Because not all campaign contributions and expenditures will have been made and the books closed before an election, the bill provides for post-election reports for as long as there are unexpended funds or continuing liabilities to a candidate or committee.

The bill vests enforcement authority in a commissioner of election finances and practices appointed by a committee of the majority and minority leaders of the House and Senate with tie votes broken by a public member appointed by the Supreme Court. The commissioner is administratively attached to but is operationally independent from the office of the Secretary of State. Being free of any direct control of elective officials is crucial to his ability to function effectively and impartially.

Being responsible for enforcement at a state level will allow the commissioner to handle enough business to develop sound methods, good records, and uniform practices. It will also enable him to assist and oversee local law enforcement efforts.

In the event the commissioner determines local law enforcement efforts are inadequate or a state-wide matter requires investigation, the commissioner has the power to conduct an investigation into the matter himself and has the same authority to bring these matters before a district court as a county attorney would have.

In order to assure public knowledge of the correct identity of donors, the current Corrupt Practices Act prohibition against giving money through or in the name of another is repeated. Furthermore, anonymous contributions are prohibited. Cash contributions given by an individual that in aggregate exceed ten dollars must be accompanied by a voucher signed by the person donating the cash. This statement is then part of the record and is filed when the contribution is put in the bank.

Whether and how to limit campaign expenditures have always been two key questions to be answered when attempting to control campaign financing. The Committee recognizes some of the shortcomings which have been associated with attempts to limit expenditures, but suggests that the goals of limitation are worthy enough to warrant efforts to effect a ceiling on expenditures.

Limitation of spending has in general been aimed at reducing the influence of big money on elections and to prevent corruption of candidates due to a need for them to obtain the large amounts

of money necessary to run a competitive campaign.²²

Arguments have been heard against the establishment of spending limits. The Governor has suggested that "it is often difficult to determine when certain expenditures made on behalf of a number of candidates can be considered an expenditure made in behalf of a particular candidate." He went on to point out how a normally non-partisan political education organization might publish campaign information which would be difficult to allocate as for or against a given candidate.²³ Other criticisms suggest that limitations have tended to be established in an arbitrary manner, have encouraged false reporting, and tend to limit full political expression.²⁴ The Governor suggested limits might tend to enhance incumbent advantages, especially in the primary.²⁵

The Committee suggests that these problems can be overcome by means of the comprehensive regulation it is proposing and by establishing limits which bear good relationship to political facts. Because there have been no limits on political club spending, the total amounts reported as having been spent in recent elections should be reasonably accurate.

Florida attempted for twenty years to rely on public knowledge of campaign spending to limit the amounts spent, but just this year imposed limits. When the Committee questioned why in the face of universal opposition to the imposition of limits that has been expressed by scholars, commissions, and writers and after twenty years of experience with no limits, the Committee learned that:

Initially, spending limits were not set on candidates because it was felt that requiring disclosure of campaign contributions and expenditures would be sufficient to hold candidates within reasonable spending limits. The legislators decided that the disclosure provision was not working as they had hoped. Finance, on the whole, was not an issue of interest to the voters, largely because of the lack of attention given to such by the media and ignorance of election laws and the subsequent reasonings for such laws on the part of the electorate.

Limits were set, and rather high, I might add, in order to keep everyone in the same ball park and on the same competition level. Since money plays such an important part in every campaign and in the possibility of winning, it was hoped that at least by setting fairly sensible limitations on campaign spending, a truer competition basis could be reached.²⁶

Thus the Committee feels that limits are necessary and will work when passed as a part of the comprehensive bill it proposes. Despite any shortcoming there might be with regard to spending limits, the excesses of unlimited spending give rise to even greater problems. Limits will be imposed based on an amount of

money times a population figure for the election district. Both the amount of money and the population base used will vary between state and local races to facilitate matching the limit to the given race in the best possible way. Complete financial control, reporting, publicity, enforcement, and limitation of spending should help provide the comprehensive campaign regulation Montana now lacks.

Two other questions studied were whether to limit the sources of campaign funds and whether to consider public financing of campaigns.

Private sources of campaign funds have been almost exclusively used to fund political campaigns in the past. This money has come from the candidate and his immediate family, individual citizens, corporations and businesses, labor unions, public employees, political parties and organizations, and various well-established and ad hoc groups.

At present, Montana law limits funds from candidates and their immediate families²⁷ and prohibits donation of funds from public officers and employees²⁸ and from corporations, public utilities and individuals holding a majority of the stock of certain regulated businesses.²⁹ All other sources of private funds mentioned above are unrestricted.

The bill proposed would retain limitations on contributions by the candidate and his family, leave the question of contributions by public officers and employees unchanged, and delete the restriction on corporate and utility contributions. Considerable argument was heard in regard to this deletion and some discussion is warranted.

The Committee felt that it was common for corporate interests to find numerous ways of supporting campaigns in spite of prohibitions against such support. This kind of pressure has led to an attitude of contempt for the statutes and an atmosphere of secrecy in obtaining campaign funds. Thus the Committee felt it would be better to allow contributions fully documented, reported and public so the public could determine a candidate's base of support. The goal of developing a workable and enforceable law was predominant in this decision.

Because a candidate is limited as to the overall amount he may spend, there is a limit to the overall amount he might accept from any one source or similar group of sources. In the final analysis it is left to the voter to decide the propriety of a candidate's decisions in this area. The bill provides that the voter should have the information available to make his decision.

Public financing of campaigns has been discussed in recent years as a means of freeing campaigns from many of the problems associated with obtaining money that have been discussed in this report. Although the Committee was not specifically directed to

consider the possibility of establishing public funding, this was one topic of interest.

Public funds can be used indirectly to provide voter information on candidates and issues, to subsidize campaigns directly, or to fully support campaigns. The public funding of primary elections was one of the first areas in which public subsidy of what had been a party and party-funded political function was undertaken. Currently, experiments in funding national presidential campaigns through income tax allocations are underway. Other measures are being proposed and debated in the Congress.

The Committee thus feels that public financing of campaigns is coming in the future, but that it would be premature to propose such a system for Montana now.

SUMMARY OF THE PROPOSED BILL

The bill:

Requires each candidate for nomination and election and each political committee to appoint a campaign treasurer, and permits them to appoint deputy campaign treasurers. Requires each candidate or political committee to designate one primary campaign depository and permits the designation of secondary depositories in each county where the candidate or committee is involved in a campaign. Such depositories are to be for the deposit of all contributions and the disbursement of all expenditures in the campaign. Bars a candidate or committee from receiving any contribution or making any expenditure except through the campaign treasurer.

Provides that each political committee which anticipates receiving contributions or making expenditures over one hundred dollars during a calendar year must file a statement of organization with the Secretary of State within ten days after its organization. Directs that the statement contain such information as the candidates the committee supports, plans for disposition of residual funds upon dissolution of the committee, a listing of all depositories for committee funds.

Requires that each campaign treasurer or political committee file reports of all contributions and expenditures quarterly until forty days before the election, and weekly thereafter. Provides that such reports contain, among other information, the name, address, occupation, and business address of every contributor and of every person receiving expenditures; sources of income; etc. Requires the filing of post-election reports as long as there are unexpended funds or unsatisfied liabilities.

Provides that a candidate or political committee shall not accept a contribution of more than fifty dollars from a committee not in this state unless (1) the contribution is accompanied by a written statement setting forth the name and address of each person who contributed more than twenty-five dollars of the contribution; or (2) a statement that the contribution is a legal one given from general committee funds not earmarked for Montana candidates in any way.

Regulates the amounts of expenditures on the basis of money times registered voters for state-wide races and money times population for district and local races, leaves some limits to be determined in legislative committee.

Provides criminal penalties in accordance with the revised Montana Criminal Code. Provides, in addition to any criminal penalties, civil penalties which may be imposed based on the amount of money involved in a violation of the law.

Establishes the office of the commissioner of campaign finances and practices to enforce the provisions of the act. This office is to be attached to the Office of the Secretary of State for administrative purposes.

FOOTNOTES

¹Model State Campaign Contributions and Expenditures Reporting Law. National Municipal League. Fourth Draft, January 1961, p. 1.

²Model Election System. National Municipal League. Preliminary Edition -- Limited Distribution, July 1973, p. 2.

³"Loophole Legislation -- State Campaign Finance Laws" University of Pennsylvania Law Review 115 (April 1967), p. 983.

⁴Sections 23-4727 and 23-4728, R.C.M. 1947.

⁵Section 23-4744, R.C.M. 1947.

⁶Richard Hofstadter, The Age of Reform: From Bryan to F.D.R., as quoted in Edwin M. Epstein, Corporations, Contributions, and Political Campaigns: Federal Regulation in Perspective. Institute of Governmental Studies, University of California, Berkeley: May, 1968, p. 11.

⁷Section 23-4731, R.C.M. 1947.

⁸Sections 23-4730, 23-4731, and 23-4755, R.C.M. 1947.

⁹Section 23-4745, R.C.M. 1947.

¹⁰Section 23-4715, R.C.M. 1947.

¹¹Section 23-4723, R.C.M. 1947.

¹²Section 23-4750, R.C.M. 1947.

¹³Kommers v. Palagi (111 Mont. 293).

¹⁴Sections 23-4734 and 23-4761, R.C.M. 1947.

¹⁵Section 23-4735, R.C.M. 1947.

¹⁶Section 23-4734, R.C.M. 1947.

¹⁷Financing a Better Election System, Committee for Economic Development, Research and Policy Committee, 477 Madison Avenue, New York, N.Y. 10022, 1968, pp. 63, 64.

¹⁸David Adamany, Financing Politics: Recent Wisconsin Elections, The University of Wisconsin Press, Box 1379, Madison, Wisconsin 53701, 1969, p. 264.

¹⁹The Missoulian, Wednesday, October 17, 1973, p. 10.

²⁰They are Arizona, Florida, Hawaii, Iowa, Maryland, Nebraska,

Oregon, Texas, and Utah.

²¹Model State Campaign Contributions and Expenditures Reporting Law. Note 1 above, p. 1.

²²Herbert E. Alexander and Laura L. Denny, Regulation of Political Finance, Institute of Governmental Studies, University of California, Berkeley; and Citizen's Research Foundation, Princeton, New Jersey, 1966.

²³Letter from the Office of the Governor to Senator McDonald dated September 21, 1973, p. 3.

²⁴See "Loophole Legislation -- State Campaign Finance Laws," University of Pennsylvania Law Review 115 (April 1967), p. 983, for a rather extensive critique of spending limitation.

²⁵Same as Note 23 above.

²⁶Letter from Mary McInerny, Staff Assistant, Committee on Elections, Florida House of Representatives, July 9, 1973.

²⁷Sections 23-4727 and 23-4728, R.C.M. 1947.

²⁸Section 23-4739, R.C.M. 1947.

²⁹Section 23-4744, R.C.M. 1947.

APPENDIX I

1 BILL NO. _____

2 INTRODUCED BY _____

3
4 23-4715 THROUGH 23-4717, 23-4719 THROUGH 23-4721, 23-4727
5 THROUGH 23-4738, 23-4742 THROUGH 23-4745, 23-4748, 23-4750,
6 23-4755 THROUGH 23-4757.

8 A BILL FOR AN ACT ENTITLED: "AN ACT REGULATING CAMPAIGN
9 FINANCES AND PRACTICES IN ALL CAMPAIGNS RELATING TO
10 ELECTIONS FOR PUBLIC OFFICE OR ELECTIONS WHERE ISSUES ARE
11 PLACED BEFORE THE VOTERS; LIMITING CAMPAIGN EXPENDITURES;
12 CREATING THE POSITION OF COMMISSIONER OF CAMPAIGN FINANCES
13 AND PRACTICES TO BE ATTACHED TO THE OFFICE OF THE SECRETARY
14 OF STATE FOR ADMINISTRATION; REQUIRING CAMPAIGN FINANCIAL
15 RECORDS AND REPORTS; PROVIDING CIVIL AND CRIMINAL PENALTIES;
16 AND REPEALING SECTIONS 23-4715 THROUGH 23-4717, 23-4719
17 THROUGH 23-4721, 23-4727 THROUGH 23-4738, 23-4742 THROUGH
18 23-4745, 23-4748, 23-4750, AND 23-4755 THROUGH 23-4757,
19 R.C.M. 1947."

21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

22 Section 1. Definitions. As used in this act, unless
23 the context clearly indicates otherwise:

24 (1) "Candidate" means

25 (a) a person who has filed a declaration of nomination

1 or acceptance of nomination as required by section 23-3304,
2 R.C.M. 1947; or

3 (b) a person who has received contributions or made
4 expenditures, has appointed a campaign treasurer, designated
5 a campaign depository pursuant to this act, or has given his
6 consent for any other person to receive contributions or
7 make expenditures, with a view to bringing about his
8 nomination or election to public office.

9 (2) "Commissioner" means the state commissioner of
10 campaign finances and practices.

11 (3) "Election" means any general, special or primary
12 election held to choose a public officer or submit an issue
13 for the approval or rejection of the voters.

14 (4) "Issue" means any proposal submitted to the people
15 for their approval or rejection at an election, including
16 any proposed law, act or part of an act of the legislature,
17 revision of or amendment to the constitution, local, special
18 or municipal legislation or proposition referendum,
19 initiative, recall question, or ballot question;

20 (5) "Public Office" means any national, state, county,
21 municipal school or other district, precinct, ward or
22 political party office or position that is filled by the
23 voters;

24 (6) "Contribution" means

25 (a) an advance, gift, subscription, pledge, promise,

1 conveyance, deposit, payment, or distribution of money or
2 anything of value, including contributions in kind having an
3 attributable monetary value in any form;

4 (b) a transfer of funds between political committees;

5 (c) the payment by any person other than a candidate
6 or political committee of compensation for the personal
7 services of another person which are rendered to a candidate
8 or political committee without charge to the candidate or
9 committee for such services;

10 (d) notwithstanding the foregoing meanings of
11 "contribution", the word does not include services provided
12 without compensation by individuals volunteering a portion
13 or all of their time on behalf of a candidate or political
14 committee.

15 (7) "Expenditure" means a purchase, payment,
16 distribution, loan, advance, promise, pledge, or gift of
17 money or anything of value made for the purpose of
18 influencing the results of an election.

19 (8) "Anything of value" means anything that has a
20 certain utility to the recipient that is real and that
21 ordinarily is not given away free but is purchased.

22 (9) "Campaign treasurer" means an individual appointed
23 by a candidate or political committee to be responsible for
24 all campaign contributions and expenditures as provided in
25 this act.

1 (10) "Political committee" means a combination of two
2 (2) or more individuals, or a person other than an
3 individual, the primary or incidental purpose of which is to
4 support or oppose any candidate issue, or political party or
5 principle, or to provide information concerning any
6 candidate or issue, or to influence the content,
7 introduction, passage, or defeat of legislation, and which
8 accepts contributions or makes expenditures to achieve any
9 of the above purposes. A political party is a political
10 committee for the purposes of this act.

11 (11) "Communications medium" means a broadcasting
12 station, newspaper, magazine, outdoor advertising facility,
13 printer, direct mailing company, advertising agency, and
14 telephone system; but with respect to the telephone, an
15 expenditure is for the use of a communications medium only
16 if made for the costs of telephones, paid telephonists, and
17 automatic telephone equipment to be used by a candidate or a
18 political committee to communicate with potential voters and
19 excludes any unreimbursed telephone bills incurred by a
20 volunteer for use of telephones by him.

21 (12) "Person" means an individual, corporation,
22 association, firm, partnership, joint stock company, club,
23 organization, or other combination of individuals able to
24 make a collective action or decision.

25 Section 2. Campaign treasurer and campaign depository.

1 (1) Each candidate for nomination or election to office and
2 each political committee shall appoint one campaign
3 treasurer. No contribution shall be received or expenditure
4 made by or on behalf of a candidate or political committee
5 until the candidate or political committee appoints a
6 campaign treasurer and certifies the name and address of the
7 campaign treasurer pursuant to this section.

8 (2) A campaign treasurer may appoint deputy campaign
9 treasurers as required, but not more than one in each county
10 in which the campaign is conducted. Each candidate and
11 political committee shall certify the full name and complete
12 address of the campaign treasurer and all deputy campaign
13 treasurers with the officer with whom the candidate files
14 for nomination or election or with whom the political
15 committee is required to file reports pursuant to this act.

16 (3) Any campaign treasurer or deputy treasurer
17 appointed pursuant to this section shall be a registered
18 voter in this state. An individual may be appointed and
19 serve as a campaign treasurer of a candidate and a political
20 committee or two (2) or more candidates and political
21 committees. A candidate may appoint himself as his own
22 campaign treasurer. No person may serve in the capacity of
23 the campaign treasurer or deputy campaign treasurer or
24 perform any duty required of a campaign treasurer or deputy
25 campaign treasurer of a candidate or political committee

1 until he has been designated and his name filed by the
2 candidate or political committee.

3 (4) Deputy campaign treasurers may exercise any of the
4 powers and duties of a campaign treasurer as set forth in
5 the act when specifically authorized in writing to do so by
6 the campaign treasurer and the candidate in the case of a
7 candidate, or the campaign treasurer and chairman of the
8 political committee in the case of a political committee.

9 (5) A candidate or political committee may remove his
10 or its campaign treasurer or any deputy treasurer. The
11 removal of any treasurer or deputy treasurer shall
12 immediately be reported to the officer with whom the name of
13 campaign treasurer was originally filed. In case of the
14 death, resignation, or removal of his or its campaign
15 treasurer before compliance with any obligation of a
16 campaign treasurer under this act, the candidate or
17 political committee shall appoint a successor and certify
18 the name and address of the successor in the manner provided
19 in the case of an original appointment.

20 (6) Each candidate and each political committee shall
21 designate one (1) primary campaign depository for the
22 purpose of depositing all contributions received and
23 disbursing all expenditures made by the candidate or
24 political committee. The candidate or political committee
25 may also designate one (1) secondary depository in each

1 county in which an election is held and in which the
2 candidate or committee participates. Deputy campaign
3 treasurers may make deposits in and make expenditures from
4 secondary depositories when authorized to do so as provided
5 in subsection (4) of this section. Only a bank authorized
6 to transact business in Montana may be designated as a
7 campaign depository. The candidate or political committee
8 shall file the name and address of each primary and
9 secondary depository so designated at the same time and with
10 the same officer with whom the candidate or committee files
11 the name of his or its campaign treasurer pursuant to
12 subsection (2) of this section.

13 (7) Contributions, including contributions or
14 expenditures of a candidate himself or of his immediate
15 family, may be directly or indirectly made or received, in
16 furtherance of the candidacy of any person for nomination or
17 election to political office in the state or on behalf of
18 any political committee only through the duly appointed
19 campaign treasurer of the candidate or political committee.
20 The candidate's immediate family means the candidate's
21 spouse, and any child, step-child, parent, grandparent,
22 brother, half-brother, sister, half-sister, mother-in-law,
23 father-in-law, nephew, niece, aunt, uncle, or grandchild of
24 the candidate or his spouse, and any spouses of such
25 persons.

1 Section 3. Registration of political committees. (1)
2 Each political committee which anticipates receiving
3 contributions or making expenditures during a calendar year
4 in an aggregate amount exceeding one hundred dollars (\$100)
5 shall file a statement of organization with the secretary of
6 state ten (10) days after its organization or, if later,
7 within ten (10) days after the date on which it has
8 information which causes the committee to anticipate that it
9 will receive contributions or make expenditures in excess of
10 one hundred dollars (\$100). Each such committee in
11 existence on the effective date of this act shall file a
12 statement of organization with the secretary of state at
13 such time as the secretary prescribes, but no later than
14 ninety (90) days after the effective date. Provided,
15 however, that committees required by the Federal Campaign
16 Communications Act of 1971 as amended (Public Law 92-225) to
17 file statements of organization with federal officials may
18 file a duplicate copy of that statement in lieu of the
19 statement required by this section.

20 (2) The statement of organization shall include:

21 (a) the name and address of the committee;

22 (b) the names, addresses, and relationships of
23 affiliated or connected organizations;

24 (c) the area, scope, or jurisdiction of the committee;

25 (d) the name, address, and position of the custodian

1 of books and accounts;

2 (e) the name, address, and position of other principal
3 officers, including officers and members of the finance
4 committee, if any;

5 (f) the name, address, office sought, and party
6 affiliation of:

7 (i) each candidate whom the committee is supporting;

8 (ii) any other individual, if any, whom the committee
9 is supporting for nomination for election, or election to
10 any public office whatever;

11 (g) any issue the committee is supporting or opposing;

12 (h) if the committee is supporting the entire ticket
13 of any party, the name of the party;

14 (i) a statement of whether or not the committee is a
15 continuing one;

16 (j) plans for the disposition of residual funds which
17 will be made in the event of dissolution;

18 (k) a listing of all banks, safety deposit boxes, or
19 other depositories used for committee funds; and

20 (l) a statement of the reports required to be filed by
21 the committee with federal officials, if any, and the names,
22 addresses and positions of such officials.

23 (3) Any change in information previously submitted in
24 a statement of organization shall be reported to the
25 secretary of state within ten (10) days following the

1 change.

2 (4) Any committee which, after having filed one or
3 more statements of organization, disbands or determines it
4 will no longer receive contributions or make expenditures
5 during the calendar year in an aggregate amount exceeding
6 one hundred dollars (\$100) shall notify the secretary of
7 state of that fact.

8 Section 4. Deposit of contributions; statement of
9 campaign treasurer. All funds received by the campaign
10 treasurer or any deputy campaign treasurer of any candidate
11 or political committee shall be deposited prior to the end
12 of the fifth business day following their receipt (Sundays
13 and holidays excluded) in a campaign depository designated
14 pursuant to section 2 of this act in an account designated
15 "Campaign Fund of (name of candidate or committee)". A
16 statement showing the full names, residences, and mailing
17 addresses of the persons contributing or providing funds so
18 deposited together with a statement of the amount received
19 from or provided by each person shall accompany all deposits
20 so made by the campaign treasurer. Cash contributions shall
21 also be accompanied by the receipt form required by section
22 8 of this act. Such statement shall be in triplicate upon a
23 form prescribed by the commissioner, one (1) copy to be
24 retained by the campaign depository for its records, one (1)
25 copy to be filed by the depository as set forth in section 6

1 of this act, if applicable, and one (1) copy to be retained
2 by the campaign treasurer for his records. Statements shall
3 be certified as correct by the campaign treasurer.

4 Section 5. Treasurer to keep records; inspections.

5 (1) The campaign treasurer of each candidate and each
6 political committee shall keep detailed accounts, current
7 within not more than two (2) days after the date of
8 receiving a contribution or making an expenditure, of all
9 contributions received and all expenditures made by or on
10 behalf of the candidate or political committee that are
11 required to be set forth in a statement filed under this
12 act.

13 (2) Accounts kept by the campaign treasurer of a
14 candidate or political committee may be inspected under
15 reasonable circumstances before, during, or after the
16 election to which the accounts refer by any authorized
17 representative of the secretary of state, attorney general,
18 county attorney or the campaign treasurer of any opposing
19 candidate or political committee in the same electoral
20 district. The right of inspection may be enforced by
21 appropriate writ issued by any court of competent
22 jurisdiction. The campaign treasurers of political
23 committees supporting a candidate may be joined with the
24 campaign treasurer of the candidate as respondents in such a
25 proceeding.

1 (3) Accounts kept by a campaign treasurer of a
2 candidate shall be preserved by the campaign treasurer for a
3 number of years equal to the term of office of the office to
4 which the candidate seeks election. Accounts kept by a
5 campaign treasurer of a political committee shall be
6 preserved by such treasurer for at least two (2) years after
7 the date of the election to which the accounts refer or at
8 least one (1) year after the date the last supplemental
9 statement is filed under section 6 of this act, whichever is
10 later.

11 Section 6. Reports, certification and filing. (1)
12 Each campaign treasurer designated by a candidate or
13 political committee pursuant to section 2 of this act shall
14 file regular reports of all contributions received and all
15 expenditures made by or on behalf of the candidate or
16 political committee. The reports shall be made on forms
17 prescribed by the commissioner. Reports shall be filed on
18 the first Monday of each calendar quarter from the time the
19 campaign treasurer is appointed until the fortieth day
20 preceding an election in which the candidate seeks
21 nomination or election to office or in which the political
22 committee seeks to influence the results through the
23 expenditure of funds, whichever may be applicable.
24 Beginning on the fortieth day preceding such election,
25 reports shall be filed on Monday of each week preceding the

1 election, with a final pre-election report filed on the day
2 immediately preceding the election.

3 (2) The campaign treasurers of candidates for federal
4 office or state-wide offices shall file reports with the
5 commissioner. Treasurers of other candidates shall file
6 reports with the county clerk and recorder in the county or
7 counties in which the name of the candidate will appear on
8 the ballot.

9 (3) Reports required of political committees shall be
10 filed with the commissioner if the committee is supporting
11 or opposing a candidate for federal or state-wide office or
12 advocating the acceptance or rejection of an issue to be
13 voted on in a state-wide election. If a political committee
14 is supporting or opposing a candidate for a county office or
15 is advocating the acceptance or rejection of an issue to be
16 voted on in an election in a county, reports shall be filed
17 with the clerk and recorder of the county in which the
18 election is being held and a duplicate copy filed with the
19 secretary of state.

20 (4) All reports required by this section shall be
21 filed with the required officer not later than noon of the
22 day designated. All reports shall be open to public
23 inspection. Any report found incomplete by the officer to
24 whom it is submitted shall be accepted on a conditional
25 basis and the treasurer shall be notified by registered mail

1 as to why the report is incomplete and shall be given
2 forty-eight (48) hours from receipt of the notice to file an
3 addendum to the report providing all information necessary
4 to complete the report in compliance with this section.
5 Failure to file a complete report in accordance with this
6 section is a violation of this act.

7 (5) Each report required by this section shall contain
8 the following information:

9 (a) the amount of funds on deposit at the beginning of
10 the reporting period;

11 (b) the full name, residence, if any, mailing address,
12 occupation, and principal place of business, if any, of each
13 person who made one or more contributions to or for such
14 committee or candidate within the reporting period, together
15 with the amount and date of such contributions;

16 (c) the name and address of each political committee
17 from which the reporting committee or the candidate
18 received, or to which that committee or candidate made, any
19 transfer of funds, together with the amounts and dates of
20 all transfers;

21 (d) each loan for campaign purposes to or from any
22 person or political committee within the reporting period,
23 together with the full names, addresses, occupations, and
24 principal places of business, if any, of the lender and
25 endorsers, if any, and the date and amount of such loans;

- 1 (e) the total amount of proceeds from:
- 2 1. sales of tickets to each dinner, luncheon, rally,
- 3 or other fund-raising event; and
- 4 2. sales of items such as political campaign pins,
- 5 buttons, badges, flags, emblems, hats, banners, literature,
- 6 and similar materials;
- 7 (f) each contribution, rebate, refund, or other
- 8 receipt not otherwise listed under paragraphs (b) through
- 9 (e);
- 10 (g) the total sum of all receipts by or for such
- 11 committee or candidate during the reporting period;
- 12 (h) the full name, residence, if any, mailing address,
- 13 occupation, and the principal place of business, if any, of
- 14 each person to whom expenditures have been made by or on
- 15 behalf of the committee or candidate within the reporting
- 16 period, the amount, date, and purpose of each such
- 17 expenditure, and the name and address of, and office sought
- 18 by, each candidate on whose behalf such expenditure was
- 19 made, provided expenditures made from the petty cash fund
- 20 authorized by this act need not be reported individually;
- 21 (i) the full name, mailing address, occupation, and
- 22 the principal place of business, if any, of each person to
- 23 whom an expenditure for personal services, salaries, or
- 24 reimbursed expenses has been made and which is not otherwise
- 25 reported, including the amount, date, and purpose of such

1 expenditure, provided expenditures made from the petty cash
2 fund authorized by this act need not be reported
3 individually;

4 (j) the total amount withdrawn and the total amount
5 spent for petty cash purposes pursuant to this act during
6 the reporting period;

7 (k) the total sum of expenditures made by the
8 committee or candidate during the reporting period;

9 (l) the amount and nature of debts and obligations
10 owed by or to the committee or candidate, which relate to
11 the conduct of any political campaign.

12 (6) A final report shall be filed forty-five (45) days
13 after the last election in a given election year in which a
14 candidate or political committee participates. If the final
15 statement shows an unexpended balance of contributions,
16 continuing debts and obligations, or an expenditure deficit,
17 the political treasurer of the candidate or political
18 committee shall file with the secretary of state a
19 supplemental statement of contributions and expenditures not
20 more than thirty (30) days after the deadline for filing the
21 final statement, and every sixty (60) days after the
22 deadline for filing the first supplemental statement, an
23 additional supplemental statement of contributions and
24 expenditures. Subsequent supplemental statements shall be
25 filed quarterly thereafter until the account shows no

1 unexpended balance, continuing debts and obligations,
2 expenditures, or deficit.

3 (7) The candidate and his campaign treasurer in the
4 case of a candidate or the political committee chairman and
5 campaign treasurer of the committee in the case of a
6 political committee shall certify as to the correctness of
7 each report, and each person so certifying shall bear the
8 responsibility for the accuracy and veracity of each report.
9 Any campaign treasurer, candidate, or political committee
10 chairman who certifies the correctness of any report while
11 knowing that such report is incorrect, false, or incomplete
12 shall be guilty of a violation of this act.

13 Section 7. Anonymous contributions and contributions
14 through second party prohibited. (1) No person may give,
15 furnish, or contribute money, material, supplies or other
16 thing of value, or make loans in support of a candidate for
17 election or nomination, to any political committee, or in
18 support of or in opposition to an issue, through or in the
19 name of another, directly or indirectly, in any election or
20 in any election at which an issue is presented to the
21 electors for their approval or rejection. Contributions by
22 candidates and political committees, to any religious,
23 charitable, civic, eleemosynary, or other causes or
24 organizations established primarily for the public good is
25 expressly prohibited. Solicitation of contributions from

1 candidates and political committees for such causes or
2 organizations is likewise prohibited. It is not a violation
3 of this subsection for a candidate to continue regular
4 personal contributions to religious, charitable, civic, or
5 eleemosynary organizations of which he is a member or to
6 which he has been a regular contributor for more than six
7 (6) months.

8 (2) No campaign treasurer may solicit or accept, agree
9 to accept, concur in, or abet the solicitation or acceptance
10 of any contribution contrary to the provisions of this
11 section. A campaign treasurer may accept a contribution in
12 the name of a political committee which has filed with the
13 appropriate officer in accordance with this act.

14 (3) A campaign treasurer may not accept a contribution
15 of more than one hundred dollars (\$100) from a political
16 committee not in this state unless the contribution is
17 accompanied by a written statement setting forth the full
18 name and complete address of each person who contributed
19 more than twenty-five dollars (\$25) of the contribution and
20 which is certified as true and correct by an officer of the
21 contributing political committee; provided, however, that a
22 campaign treasurer may accept such a contribution as a
23 contribution from a committee not in this state if the
24 treasurer of the committee certifies that: (1) the funds
25 contributed are from the general fund of the committee; (2)

1 such funds do not include any money contributed to the
2 committee under any agreement that they be contributed to
3 any candidate or political committee in Montana; and (3)
4 that the political committee not in this state is
5 contributing such funds in compliance with all applicable
6 federal laws.

7 (4) Any anonymous contribution or other contribution
8 contrary to this act received by candidate or political
9 committee shall not be used or expended, but shall be
10 returned to the donor, if his identity is known, and if no
11 donor is found the contribution shall escheat to the state.
12 Each campaign treasurer shall pay all amounts contributed in
13 violation of this section to the state treasurer for deposit
14 in the general fund.

15 (5) Any person who makes, receives, or expends funds,
16 or makes a statement he knows to be false contrary to the
17 provisions of this section is guilty of a violation of this
18 act. In addition to any other penalty prescribed by this
19 act, a person convicted of a violation of this section shall
20 pay to the state a civil penalty equal to twice the amount
21 received, contributed, or expended in violation of this
22 section.

23 Section 8. Receipts for cash contributions. (1) No
24 person shall accept a cash contribution which itself or in
25 aggregate with other cash contributions from a person is in

1 excess of ten dollars (\$10) unless the contribution is
2 accompanied by a contribution statement on a form prescribed
3 by the commissioner. The statement shall contain the
4 following information:

5 (a) the full name, residence, mailing address,
6 occupation, and place of business of the contributor;

7 (b) the date on which the contribution was made and
8 the name of the person who received the contribution on
9 behalf of the candidate or political committee;

10 (c) the exact amount of the contribution;

11 (d) a statement by the contributor that the
12 information contained therein is true to the best of his
13 knowledge; and

14 (e) the signature of the contributor.

15 (2) The prescribed form in subsection (1) of this
16 section shall contain a statement of the penalty for failing
17 to report any such cash contributions made, or for
18 deliberately filing a false statement.

19 (3) It is the duty of each candidate and each
20 political committee to furnish in triplicate the form
21 described in subsection (1) of this section to each person
22 contributing cash in excess of ten dollars (\$10). At the
23 time the contribution is deposited in the designated
24 depository, one copy of the form shall be sent to the
25 primary filing officer by the campaign treasurer, one copy

1 retained by the contributor, and one copy filed with the
2 depository.

3 (4) Any person required by subsection (1) of this
4 section to submit a statement of cash contribution who fails
5 to submit such a statement or who files an inaccurate
6 statement shall be guilty of a violation of this act. In
7 addition to any other penalty prescribed by this act, a
8 person convicted of a violation of this section shall pay to
9 the state a civil penalty equal to twice the amount of cash
10 contributions received in violation of this section.

11 Section 9. Methods for making expenditures for
12 candidates and political committees. Each candidate and
13 each political committee designating campaign depositories
14 pursuant to subsection (1) of section 2 of this act shall
15 make expenditures only from funds on deposit in those
16 campaign depositories and only in the following manner, with
17 the exception of expenditures made from petty cash funds
18 provided by section 10 of this act:

19 (1) The campaign treasurer or deputy campaign
20 treasurer of a candidate or political committee shall
21 deliver an authorization voucher to the person or firm
22 providing goods or services to the candidate or political
23 committee for which funds are to be expended. The
24 authorization voucher shall be on a form prescribed by the
25 secretary of state and shall contain the following

1 information:

2 (a) the exact amount of funds authorized to be
3 expended by such a voucher;

4 (b) the exact nature, amount, or extent of goods or
5 services to be rendered in consideration of such funds;

6 (c) a statement by the campaign treasurer or deputy
7 treasurer that:

8 1. the amount authorized to be paid is the full amount
9 to be rendered for the goods or services stated and that the
10 goods or services stated is the amount or extent of goods or
11 services to be rendered for the amount to be paid;

12 2. that there are sufficient funds on deposit in the
13 primary depository to pay the amount authorized in the
14 voucher;

15 3. that the expenditure will not be in violation of
16 expenditure limitations provided by section 16 of this act;
17 and

18 4. the signature of the campaign treasurer or deputy
19 treasurer authorizing the expenditure.

20 (2) The provider of goods or services shall present
21 the authorization voucher to the depository for payment from
22 the account of the candidate or political committee
23 authorizing the expenditure. The provider of goods or
24 services shall certify in writing in a space provided on the
25 voucher that all the information contained on the voucher is

1 true and complete to the best of his knowledge, and shall
2 sign such certification.

3 (3) If the primary depository finds an authorization
4 voucher to be complete and in order, it shall render payment
5 in the amount authorized by the voucher from the account of
6 the candidate or political committee authorizing the
7 expenditure. If the voucher is not in order, the primary
8 depository shall return the forms to the provider of goods
9 or services and shall immediately file a complete report of
10 the occurrence with the commissioner or county attorney.

11 (4) Any person who receives or expends funds contrary
12 to the provisions of this section is guilty of a violation
13 of this act. In addition to any other penalty provided by
14 this act, a person convicted of a violation of this section
15 shall pay to the state a civil penalty equal to twice the
16 amount received or expended in violation of this section.

17 Section 10. Petty cash funds allowed. (1) The
18 campaign treasurer of each candidate or each political
19 committee is authorized to withdraw the following amount
20 each week from the primary depository for the purpose of
21 providing a petty cash fund for the candidate or political
22 committee:

23 (a) for all candidates for nomination or election on a
24 statewide basis and all political committees operating on a
25 statewide basis, one hundred dollars (\$100) per week; and

1 (b) for all other candidates and political committees,
2 twenty dollars (\$20) per week.

3 (2) The petty cash fund so provided may be spent for
4 office supplies, transportation expenses, and other
5 necessities in an amount of less than ten dollars (\$10).
6 Petty cash shall not be used for the purchase of time,
7 space, or services from any communications medium.

8 Section 11. Certain expenditures prohibited. (1) No
9 person, candidate, political party, political committee, or
10 person acting on behalf of another, shall, prior to a
11 candidate's filing for office, directly or indirectly make
12 any expenditure in furtherance of his candidacy for the
13 following purposes:

14 (a) advertising on radio or television;

15 (b) advertising in newspapers, magazines, or
16 periodicals;

17 (c) advertising on billboards, banners, or streamers;

18 (d) advertising on campaign literature or any other
19 printing;

20 (e) renting a hall in which to address the public.

21 Provided, however, that a person, candidate, political
22 committee, or person acting on behalf of another is
23 permitted to reserve but not to make use of advertising time
24 and space prior to filing for office.

25 (2) No person shall pay money or give anything of

1 value for the privilege of speaking at a political meeting
2 in the furtherance of his candidacy, nor shall anyone
3 speaking for such a person pay money or give anything of
4 value for such privilege.

5 (3) No person in order to influence the result of any
6 election shall:

7 (a) furnish entertainment, food or drink, or other
8 valuable thing to a meeting of electors previous to or
9 during an election;

10 (b) pay for, procure, or engage to pay for any such
11 entertainment;

12 (c) furnish or engage to pay or provide money or any
13 thing of value for the purpose of procuring the attendance
14 of voters at the polls;

15 (d) give or promise to give or offer to any elector
16 any money or anything of value to vote for or to refrain
17 from voting for any candidate or issue. The payment of
18 expenses for holding and conducting public meetings and of
19 printing and circulating advertising materials in accordance
20 with this act is not a violation of this subsection.

21 (4) Any person making an expenditure or providing any
22 thing contrary to the provisions of this section is guilty
23 of a violation of this act. In addition to any other
24 penalty prescribed by this act, a person convicted of
25 violation of this section shall pay to the state a civil

1 penalty equal to twice the amount of expenditures made in
2 violation of this section.

3 Section 12. No person may offer or agree to appoint or
4 procure the appointment of any person to any public office
5 as an inducement or consideration for any person to vote for
6 or to procure or aid in procuring the election of any
7 candidate. No person shall communicate any offer or
8 agreement prohibited by this section.

9 Section 13. Any person who, by threats, intimidations,
10 or violence, hinders or prevents electors from assembling in
11 public meeting for the consideration of any public
12 questions, candidates, or issues or any person who breaks up
13 or disturbs such a meeting is guilty of a violation of this
14 act.

15 Section 14. Every person who makes, offers, or accepts
16 any bet or wager upon the result of any election, or upon
17 the success or failure of any person or candidate, or upon
18 the number of votes to be cast, or any event or contingency
19 relating to any election is guilty of a violation of this
20 act.

21 Section 15. Limitation on certain rates and charges --
22 reports. (1) No person within the state, publishing a
23 newspaper or other periodical, operating a radio or
24 television station or network of stations in Montana or
25 otherwise supplying advertising materials or services shall

1 charge a candidate or political committee for political
2 advertising in excess of the normal charge it requires other
3 customers to pay for comparable materials and services; nor
4 shall such a person charge one candidate or political
5 committee at a higher rate than another candidate or
6 political committee; and no candidate or political committee
7 shall pay for political advertising or broadcasts any rate
8 or charge in excess of the normal charge for comparable
9 materials and services.

10 (2) Each newspaper, periodical, broadcasting station,
11 direct mailing company, printer, and advertising agency that
12 accepts expenditures from a political treasurer shall, not
13 more than ten (10) days and not less than seven (7) days
14 before an election, and again not more than thirty (30) days
15 after an election, file with the secretary of state or the
16 county clerk and recorder a statement listing the amounts
17 paid and obligations incurred by each candidate, political
18 committee, or political treasurer with respect to the
19 election. The statements shall be signed and certified as
20 true and correct.

21 Section 16. Limitation on expenditures. No candidate
22 for nomination or election to any of the offices enumerated
23 below, or any person, campaign treasurer or deputy campaign
24 treasurer, political committee, political party, or other
25 organization acting on behalf of such candidate with his or

1 his campaign treasurer's knowledge, shall expend any funds
2 or incur any obligation or expenditure of funds on behalf of
3 his nomination or election in excess of the following:

4 (1) For the office of governor, the maximum allowable
5 expenditure of funds by any candidate shall be the
6 following:

7 (a) for the primary election, an amount equal to
8 fifteen cents (\$.15) times the number of registered voters
9 eligible to vote for the office in the last preceding
10 general election.

11 (b) for the general election, an amount equal to
12 twenty cents (\$.20) times the number of registered voters
13 eligible to vote for the office in the immediately preceding
14 general election.

15 (2) For the offices of state senator or member of the
16 state house of representatives, the maximum allowable
17 expenditure of funds by each candidate shall be as follows:

18 (a) for the primary election an amount equal to twenty
19 cents (\$.20) times the ideal population of a senatorial or
20 representative district as applicable,

21 (b) for the general election an amount equal to ten
22 cents (\$.10) times the ideal population of a senatorial or
23 representative district as applicable.

24 (3) For county and city and town offices the maximum
25 allowable expenditure of funds by each candidate shall be

1 five cents (\$.05) times the population of the county, city,
2 or town or three hundred dollars (\$300) whichever is more.

3 (4) The ideal population of a legislative or
4 senatorial district shall be the average population of each
5 such district as determined by the most recently preceding
6 redistricting and reapportionment commission.

7 The commissioner shall determine and make available to
8 all candidates a statement showing the base population and
9 registration figure on which the limitations in this section
10 are to be computed.

11 Notwithstanding the limitations in section 2 (7) of
12 this act, expenditures may be made directly by any political
13 committee for obtaining time, space, or services in or by
14 any communications medium for the purpose of jointly
15 endorsing more than one candidate, political committee, or
16 issue. Such expenditures shall be considered contributions
17 to and expenditures on behalf of the several candidates,
18 political committees, or issues equally divided among them.

19 Section 17. Commissioner -- office created,
20 appointment, qualifications. (1) There is created the
21 position of commissioner of campaign finances and practices,
22 who shall be appointed by a majority of a four (4) member
23 selection committee which shall be comprised of the majority
24 and minority floor leaders of both houses of the
25 legislature. If a majority of the members of the selection

1 committee cannot agree upon the selection of a commissioner
2 within thirty (30) days after the effective date, the
3 Montana supreme court shall appoint a fifth public member to
4 the selection committee and the public representative on the
5 selection committee shall cast the deciding vote.

6 (2) A natural person appointed to serve as
7 commissioner shall be licensed to practice before the
8 supreme court of the state of Montana and shall have
9 practiced law within the state of Montana for at least one
10 (1) year.

11 (3) The natural person selected to serve as the
12 commissioner of campaign finances and practices shall be
13 appointed for a five (5) year term and shall thereafter be
14 ineligible to serve as the commissioner of campaign finances
15 and practices.

16 (4) If for any reason a vacancy should occur in the
17 position of commissioner, a successor shall be appointed
18 within thirty (30) days as provided in subsection (1) to
19 serve out the unexpired term. A person who is selected to
20 serve out the unexpired term of a preceding commissioner
21 shall be entitled to be reappointed for a five (5) year term
22 as provided in subsection (3) of this section.

23 (5) The state elections commissioner shall receive a
24 salary of twenty-two thousand dollars (\$22,000). Salary
25 increases for the commissioner may be recommended by the

1 state salary commission.

2 (6) The office of the commissioner shall be attached
3 to the office of the secretary of state for administrative
4 purposes only and shall:

5 (a) exercise all functions under this act
6 independently of the secretary of state;

7 (b) hire personnel necessary to fulfill the duties
8 required by this act;

9 (c) submit budget requests through the office of the
10 secretary of state;

11 (d) submit required reports through the office of the
12 secretary of state.

13 (7) The office of the secretary of state shall:

14 (a) include the budget requests of the office of the
15 commissioner in the budget of the secretary;

16 (b) print and disseminate for the commissioner
17 required notices, rules, or orders adopted, amended, or
18 repealed by the commissioner;

19 (c) allocate office space to the commissioner as
20 necessary, subject to the approval of the department of
21 administration.

22 Section 18. Duties of the commissioner. The
23 commissioner shall:

24 (1) prescribe forms for statements and other
25 information required to be filed by this act and to furnish

1 these forms to persons required to file such statements and
2 information;

3 (2) prepare and publish a manual prescribing a uniform
4 system of accounts for use by persons required to file
5 statements by this act;

6 (3) accept and file any information voluntarily
7 supplied that exceeds the requirements of this act;

8 (4) develop a filing, coding, and cross-indexing
9 system consonant with the purposes of this act;

10 (5) make statements and other information filed with
11 them available for public inspection and copying during
12 regular office hours and to make copying facilities
13 available at a charge not to exceed actual cost;

14 (6) preserve such statements and other information for
15 a period of ten (10) years from date of receipt;

16 (7) prepare and publish summaries of the statements
17 received;

18 (8) prepare and publish an annual report including
19 compilations of total reported contributions and
20 expenditures for all candidates, political committees, and
21 other persons during the year; total amounts expended
22 according to such categories as he shall determine and
23 broken down into candidate and political committee
24 expenditures on the state and local levels; total amounts
25 expended for influencing nominations and elections stated

1 separately; total amounts contributed according to such
2 categories of amounts as he shall determine and broken down
3 into contributions on the state and local levels for
4 candidates and political committees; and aggregate amounts
5 contributed in excess of one hundred dollars (\$100);

6 (9) prepare and publish from time to time special
7 reports comparing the various totals and expenditures made
8 with respect to preceding elections;

9 (10) prepare and publish such reports as he may deem
10 appropriate;

11 (11) assure wide dissemination of statistics,
12 summaries, and reports prepared under this act;

13 (12) employ such personnel or contract for such
14 services as are necessary to adequately carry out the intent
15 of this act;

16 (13) prescribe the manner in which the county clerks
17 and recorders shall collect, file, collate, and forward
18 reports filed with them under this act;

19 (14) prescribe suitable rules and regulations to carry
20 out the provisions of this act; provided such rules shall be
21 prescribed pursuant to the Montana Administrative Procedure
22 Act; and

23 (15) make an annual report to the legislature
24 concerning election activities of the office and
25 recommending improvements in the election code.

1 Section 19. Examination of statements and issuance of
2 notification of non-compliance. (1) Each statement filed in
3 accordance with this act shall be inspected within ten (10)
4 days after the date the statement is filed. The
5 commissioner shall immediately notify a person required to
6 file a statement pursuant to this act that he has not
7 satisfied the provisions of the act. A notification of
8 non-compliance shall be issued when:

9 (a) it appears that a person required by this act to
10 file a report has failed to file a report; or

11 (b) it is determined that a statement filed with the
12 commissioner or secretary of state or a county clerk and
13 recorder does not conform to the requirements of this act.

14 (2) If a notification of non-compliance is issued
15 during an election, or within sixty (60) days thereafter, a
16 candidate or political committee shall submit the necessary
17 information five (5) days after receiving the notification
18 of non-compliance. Upon a failure to submit the required
19 information within the time specified, the commissioner has
20 the authority to initiate the appropriate civil or criminal
21 action as prescribed by this act.

22 (3) If a notification of non-compliance is issued
23 during any other period than that described in subsection
24 (2), a candidate or political committee shall submit the
25 necessary information within ten (10) days after receiving

1 the notice of non-compliance. Upon a failure to submit the
2 required information within the time specified, the
3 commissioner shall initiate the appropriate civil or
4 criminal action as prescribed by this act.

5 (4) A candidate or political treasurer aggrieved by
6 the issuance of a notification of non-compliance may seek
7 judicial review in the district court of the county in which
8 the candidate resides or the county in which the political
9 committee has its headquarters. All petitions for judicial
10 review filed pursuant to this act shall be expeditiously
11 reviewed by the appropriate district court.

12 To aid in determination of the accuracy of any report,
13 the commissioner may investigate the source and authenticity
14 of any contribution or expenditure listed in any report or
15 statement filed pursuant to this act.

16 Section 20. Names not to be printed on ballot. (1)
17 The name of a candidate may not be printed on the official
18 ballot for a general or special election if the political
19 treasurer for a candidate fails to file any statement
20 referring to such election that he is required to file
21 pursuant to this act.

22 (2) A vacancy on an official ballot under this section
23 may be filled in the manner provided by law, but not by the
24 name of the same candidate.

25 (3) In carrying out the mandate of this section, the

1 commissioner or a county attorney must by a written
2 statement notify the secretary of state or the city or
3 county clerk or the clerk of a school district, that a
4 candidate, or a candidate's political treasurer, has not
5 complied with the provisions of this act as described in
6 subsection (1) and that a candidate's name should not be
7 printed on the official ballot.

8 Section 21. Certificates of election or commission may
9 be withheld. No certificate of election shall be granted to
10 any candidate until his political treasurer has filed the
11 reports and statements that must be filed pursuant to the
12 provisions of this act. No candidate for public office may
13 assume that office until he has received the appropriate
14 certificate of election or commission as provided by law. A
15 certificate of election or commission shall be issued by the
16 official responsible to issue that certificate or commission
17 only after receiving a written statement from the
18 commissioner or the county attorney that a candidate has
19 filed all of the reports that must be filed pursuant to the
20 provisions of this act.

21 Section 22. (1) The commissioner of elections shall
22 have the authority to prosecute criminal violations of this
23 act and of any other campaign or election laws of this state
24 in the district court for the county in which any such
25 violation occur or in the district court for Lewis and Clark

1 County.

2 (2) The authority specified in subsection 1 shall
3 include the power to:

4 (a) Attend the district court and conduct, on behalf
5 of the state, prosecutions for criminal violations of this
6 act;

7 (b) Institute proceedings before magistrates for the
8 arrest of persons charged with or reasonably suspected of
9 criminal violations of this act, when he has information
10 that such criminal violations have occurred;

11 (c) Attend before and give advice to the grand jury,
12 whenever cases involving criminal violations of this act are
13 presented to them for their consideration;

14 (d) Draw and file indictments, informations, and
15 criminal complaints in the appropriate court.

16 (e) Prosecute all recognizances forfeited in the court
17 of record by persons charged with criminal violations under
18 this act;

19 (f) Prosecute all actions for the recovery of debts,
20 fines, penalties and forfeitures accruing to the state or
21 county from persons convicted of violations of this act;

22 (g) Do any other act necessary to the exercise of the
23 power to prosecute created by this act.

24 (3) Nothing in this section shall be construed to
25 limit the powers and duties of the county attorney as public

1 prosecutor.

2 Section 23. Powers and duties of county attorneys.

3 (1) In any school board election or in any election
4 involving a local issue, it shall be the duty of the county
5 attorney in the county where an alleged violation has
6 occurred to investigate and prosecute any violation of this
7 act. However, should the county attorney determine that no
8 violation has occurred or prosecution pursued, the
9 commissioner shall have the authority to conduct his own
10 investigation of any alleged violation if any person files a
11 written complaint with the commissioner stating that a
12 violation has occurred.

13 (2) It shall be the duty of the county attorney to
14 review all reports and statements filed with the county
15 clerk and recorder within the time periods prescribed by
16 this act for review of reports by the commissioner.

17 (3) A county attorney shall have the power to inspect
18 any records, accounts, or books which must be kept pursuant
19 to the provision of this act that are held by any political
20 committee or candidate involved in an election to be held
21 within the county. However, such inspections must be
22 conducted during reasonable hours.

23 (4) A county attorney shall have the power to issue
24 notification of non-compliance as provided by this act with
25 respect to any reports required to be filed with the county

1 clerk and recorder by this act.

2 (5) A county attorney, after reviewing the campaign
3 contribution and expenditure reports filed pursuant to this
4 act, shall inform the appropriate certifying official that
5 each candidate who has been properly elected to public
6 office has filed his contribution and expenditure reports
7 and may be certified.

8 (6) A county attorney shall have the authority to
9 administer oaths and affirmations, subpoena witnesses,
10 compel their attendance, take evidence and require the
11 production of any books, correspondence, memoranda, bank
12 account statements of a political committee or candidate, or
13 other records which the county attorney deems relevant or
14 material for the purpose of conducting any investigation
15 pursuant to the provisions of this act.

16 Section 24. Date of mailing considered date of
17 receipt. When any application, report, statement, or notice
18 required by this act has been deposited post-paid in the
19 United States mail, properly addressed, it shall be
20 considered to have been received on the date of mailing. It
21 shall be presumed that the date shown by the post office
22 cancellation mark on the envelope is the date of mailing.
23 The commissioner may prescribe the use of registered or
24 certified mail service if it is necessary for the
25 implementation of this section.

1 Section 25. Penalties. (1) A person who falsely
2 reports or deliberately fails to include any information
3 required by this act or who falsely reports or deliberately
4 fails to report any contribution or expenditure as required
5 by this act may be guilty of false swearing, or unsworn
6 falsification to authorities as applicable and upon
7 conviction shall be punished as provided in section
8 94-7-203, or 94-7-204.

9 (2) Any person who accepts a contribution prohibited
10 by this act or makes an expenditure in excess of the amounts
11 provided by this act or in any manner other than that
12 provided in this act is guilty of a violation of this act
13 and upon conviction shall be fined not to exceed five
14 hundred dollars (\$500) or be imprisoned in the county jail
15 for a term not to exceed six (6) months, or both.

16 (3) Any person who violates any other provision of
17 this act, upon conviction, shall be fined not to exceed five
18 hundred dollars (\$500) or be imprisoned in the county jail
19 for a term not to exceed six (6) months, or both.

20 (4) If a court of competent jurisdiction finds that
21 the violation of any provision of this act by any candidate
22 or political committee probably affected the outcome of any
23 election, the result of that election may be held void and a
24 special election held within sixty (60) days of that
25 finding. Any action to void an election shall be commenced

1 within one (1) year of the date of the election in question
2 or within sixty (60) days of the discovery of the violation,
3 whichever occurs last.

4 (5) In addition to all other penalties prescribed by
5 this act:

6 (a) any candidate who is convicted of violating any
7 provision of this act shall be ineligible to be a candidate
8 for any public office in the state of Montana for a period
9 of five (5) years from the date of conviction;

10 (b) any campaign treasurer or deputy campaign
11 treasurer who is convicted of violating any provision of
12 this act shall be ineligible to be a candidate for any
13 public office or to hold the position of campaign treasurer
14 or deputy campaign treasurer in any campaign in the state of
15 Montana for a period of five (5) years from the date of
16 conviction.

17 (6) Any person convicted of violations under this act
18 shall be subject to the civil penalties provided by this act
19 in addition to any criminal penalties.

20 Section 26. The secretary of state shall, at the
21 expense of the state, furnish the county clerk, and the city
22 and town clerks, auditors, and recorders, copies of this act
23 as a part of the election laws. Upon the filing of a
24 nomination petition or certification of nomination, the
25 secretary of state, in the case of state and district

1 offices for districts composed of one or more counties;
2 county clerks for county offices; and city and town clerks,
3 auditors, or recorders for municipal offices, shall transmit
4 to the candidates and treasurers of political committees,
5 copies of this act. Such copies shall also be furnished to
6 any other person required to file a statement. Upon his own
7 information, or at the written request of any voter the
8 secretary of state shall provide a copy of this act to any
9 other person who may be a candidate, or who may otherwise be
10 required to make a statement required by this act.

11 Section 27. Severability. It is the intent of the
12 legislative assembly that if part of this act is invalid,
13 all valid parts that are severable from the invalid part
14 remain in effect. If a part of this act is invalid in one
15 or more of its applications, the part remains in effect in
16 all of its applications that are severable from the invalid
17 applications.

18 Section 28. Effective date. This act is effective
19 upon passage and approval.

20 Section 29. Sections 23-4715 through 23-4717, 23-4719
21 through 23-4721, 23-4727 through 23-4738, 23-4742 through
22 23-4745, 23-4748, 23-4750, 23-4755 through 23-4757 are
23 repealed.

-End-

